

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Donaghy	Team: Squad #2	CCRB Case #: 201903903	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/24/2019 8:58 AM	Location of Incident: 78th Precinct Stationhouse	Precinct: 78	18 Mo. SOL 10/24/2020	EO SOL 6/10/2021	
Date/Time CV Reported Tue, 05/07/2019 8:59 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/07/2019 8:59 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Nasser Alsubai	24818	963847	078 PCT
2. POM Anthony Baty	03657	958298	113 PCT
3. POF Krysta Cosenza	09372	961710	078 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Thomas Kiryako	03107	942014	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nasser Alsubai	Abuse: Police Officer Nasser Alsubai did not process § 87(2)(b)'s complaint regarding officers.	§ 87(2)(g)
B.POM Anthony Baty	Abuse: Police Officer Anthony Baty did not process § 87(2)(b)'s complaint regarding officers.	§ 87(2)(g)
C.POF Krysta Cosenza	Abuse: Police Officer Krysta Cosenza did not process § 87(2)(b)'s complaint regarding officers.	§ 87(2)(g)

Case Summary

On May 7, 2019, § 87(2)(b) called the CCRB to report the following complaint.

At approximately 8:58 a.m. on April 24, 2019, § 87(2)(b) entered the 78th Precinct stationhouse with the intention of filing a complaint against officers. Upon entering, he encountered Police Officer Nasser Alsubai, Police Officer Anthony Baty, Police Officer Krysta Cosenza, and an unidentified Police Cadet. § 87(2)(b) said that he had come to file a complaint against an officer, and all three officers pointed § 87(2)(b) to a poster on the wall giving contact information for the Civilian Complaint Review Board. Police Officer Cosenza then told § 87(2)(b) that following the information on the poster would be the best way of filing his complaint. Allegedly, not one of Police Officer Alsubai, Police Officer Baty, nor Police Officer Cosenza offered to take § 87(2)(b)'s complaint in-person or provided him with a Civilian Complaint Report form (**Allegation A: Abuse of Authority - Refusal to process civilian complaint, § 87(2)(g)**) (**Allegation B: Abuse of Authority - Refusal to process civilian complaint, § 87(2)(g)**) (**Allegation C: Abuse of Authority - Refusal to process civilian complaint, § 87(2)(g)**). § 87(2)(b) then left the 78th Precinct stationhouse.

The investigation obtained footage from two of stationhouse cameras at the 78th Precinct stationhouse; the original file with all provided angles is located in IA # 13 (Board Review 01), the footage capturing the entrance vestibule is located in IA # 14 (Board Review 02), the footage capturing the main entrance is located in IA # 15 (Board Review 03), and the footage capturing the lobby waiting area is in IA # 16 (Board Review 04). The footage is summarized in IA # 17 (Board Review 05).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Nasser Alsubai did not process § 87(2)(b)'s complaint regarding officers.

Allegation (B) Abuse of Authority: Police Officer Anthony Baty did not process § 87(2)(b)'s complaint regarding officers.

Allegation (B) Abuse of Authority: Police Officer Krysta Cosenza did not process § 87(2)(b)'s complaint regarding officers.

On May 9, 2019, § 87(2)(b) was interviewed at the CCRB. On July 10, 2019, Sergeant Thomas Kiryako was interviewed at the CCRB. On August 1, 2019, Police Officer Krysta Cosenza was interviewed at the CCRB. On August 2, 2019, Police Officer Anthony Baty was interviewed at the CCRB. On August 6, 2019, Police Officer Nasser Alsubai was interviewed at the CCRB.

§ 87(2)(b) stated that when he walked into the 78th Precinct stationhouse he approached a group of officers gathered around the front desk, who the investigation identified as Police Officer Nasser Alsubai, Police Officer Anthony Baty, Police Officer Krysta Cosenza, and an unidentified Police Cadet. § 87(2)(b) stated out loud to the group that he had come to file a complaint against an officer. Police Officer Cosenza asked him if he was there to file a complaint against a New York City Police Officer, and when § 87(2)(b) responded affirmatively she

pointed § 87(2)(b) to a poster on the wall of the stationhouse titled “Three Ways to Report Police Misconduct to the New York City Civilian Complaint Board” poster (hereafter referred to as the CCRB poster). § 87(2)(b) took a picture of the CCRB poster, which is located in IA # 8 (Board Review 06).

Police Officer Cosenza then told § 87(2)(b) that following the information on the poster would be his best way forward, as there would be no direct interaction between him and any NYPD officer in the process. No officer asked § 87(2)(b) for additional details about his complaint, or offered to file his complaint at the Stationhouse. § 87(2)(b) was not given any paperwork. § 87(2)(b) then walked out of the stationhouse.

Police Officer Cosenza stated during her CCRB interview that she remembered § 87(2)(b) coming into the 78th Precinct Stationhouse, but did not recall whether § 87(2)(b) wanted to a file a criminal complaint or a complaint against an officer. Police Officer Cosenza did not recall if she had any direct interactions with § 87(2)(b) or which officer, if any, helped § 87(2)(b). § 87(2)(b) did not ask to file a complaint at the stationhouse.

Police Officer Baty stated during his CCRB interview that he did not remember this incident, and further stated that he did not remember any interactions he had with civilians on April 24, 2019. Police Officer Baty stated that his understanding of Patrol Guide Procedure is that providing information about the methods one can use to file a complaint against an officer is sufficient to address a civilian request to make a complaint against a police officer. Police Officer Baty stated that a civilian must take the “next step” by requesting to make the complaint in-person, and further stated that he has never given any form to a civilian who asked to make a complaint against a police officer.

Police Officer Alsubai stated during his CCRB interview that he did not recall this incident. When asked what his understanding of Patrol Guide Procedure for taking a civilian complaint was, he stated that if a civilian comes into the stationhouse asking to make a complaint against an officer he should take the complaint on the spot.

Sergeant Kiryako, who was the Desk Sergeant at the time of this incident, stated during his CCRB interview that he did not recall this incident. Sergeant Kiryako did not recognize § 87(2)(b) from a photograph and did not recall any civilians coming into the 78th Precinct stationhouse to file a complaint against officers on April 24, 2019.

The footage from the 78th Precinct stationhouse cameras (Board Review 01) show that no officers gave § 87(2)(b) a Civilian Complaint Report form. In a subclip of the entrance vestibule footage located in IA #20 (Board Review 07) the incident can be seen in its entirety. § 87(2)(b) is seen entering the stationhouse, and he appears to begin a short conversation with three officers, who the investigation has identified as Police Officer Cosenza, Police Officer Baty, and Police Officer Alsubai.

Shortly after the conversation begins Police Officer Alsubai can be seen making a gesture towards the wall to his left, where the CCRB poster is hanging. First Police Officer Baty and then Police Officer Cosenza point directly at that same poster. § 87(2)(b) is seen taking a

photograph of that poster, § 87(2)(g) [REDACTED]
[REDACTED] (Board Review 06). § 87(2)(b) [REDACTED] then exits out the front door of the Stationhouse. The full interaction takes approximately one minute, and at no point is § 87(2)(b) [REDACTED] given a Civilian Complaint Report form.

A review of the full stationhouse footage (Board Review 05) showed that § 87(2)(b) [REDACTED] did not have any further interaction with any officers.

Patrol Guide Procedure Number 207-31 (Board Review 08) states that when a civilian complainant makes a complaint against an NYPD officer to a member of service the civilian complainant is to be interviewed, given a first copy of the Civilian Complaint Report form to be prepared by the complainant, and assisted in preparing the form. Even if a civilian does not want to immediately make a complaint, they are to be provided a Civilian Complaint Report form before being told the various ways they can make a complaint against an NYPD officer.

§ 87(2)(g) [REDACTED]
§ 87(2)(b), § 87(2)(g) [REDACTED]
§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the 2nd CCRB complaint to which § 87(2)(b) [REDACTED] has been a party (Board Review 09).
 - § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- Police Officer Nasser Alsubai has been a member of service for 2 years. This is the first CCRB complaint in which he has been a subject.
- Police Officer Anthony Baty has been a member of service for 4 years. This is the first CCRB complaint to which he has been a subject.
- Police Officer Krysta Cosenza has been a member of service for 3 years. This is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 2

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date